

5. This Court has personal jurisdiction over the Defendant. Defendant has conducted and does conduct business within this Judicial District. Defendant directly or through intermediaries distributes, offers for sale, sells, and advertises its products in the United States, the State of Texas, and the Eastern District of Texas. Defendant has purposely and voluntarily sold its infringing products or services with the expectation they would be purchased by consumers in the Eastern District of Texas. These infringing products or services have been and continue to be purchased by consumers in the Eastern District of Texas. Defendant committed acts of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas.

INFRINGEMENT OF U.S. PATENT NO. 6,240,394

6. Each allegation contained in the above paragraphs is incorporated by reference herein.

THE PATENT IN SUIT

7. On May 29, 2001, U.S. Patent No. 6,240,394, entitled "Method and Apparatus for Automatically Generating Advisory Information for Pharmacy Patients" ("the '394 patent"), was duly and legally issued to Catalina Marketing International, Inc., assignee of inventor Robert Anthony Uecker. A copy of the '394 patent is attached as Exhibit A. A copy of the assignment from Robert Anthony Uecker to Catalina Marketing International, Inc. is attached as Exhibit B. Catalina Marketing International, Inc. has merged with and into Catalina Marketing Corporation.

8. The claims of the '394 patent are directed to a system for generating targeted advisory messages for pharmacy patients based on selected monitored data components of each transaction.

9. Robert Anthony Uecker was previously employed by Catalina. He subsequently was employed by Defendant. Other senior executives and employees of Defendant were also previously employees of Catalina.

INFRINGEMENT BY DEFENDANT LDM GROUP, LLC

10. Each allegation contained in the above paragraphs is incorporated by reference herein.

11. On information and belief, and without the permission or license of Catalina, Defendant is making, selling, offering for sale, and using products or services, including Defendant's CAREPOINTS® patient messaging program, that embody the invention(s) set forth in the '394 patent and thereby Defendant has and still is infringing the '394 patent, and actively inducing and/or contributing to the infringement of the '394 patent by others.

12. Defendant's infringing activities have damaged and continue to damage Catalina. Upon information and belief, Defendant will continue to infringe the '394 patent, causing irreparable harm to Catalina unless enjoined by this Court.

13. On information and belief, Defendant has willfully and deliberately infringed the '394 patent with full knowledge of Catalina's rights under the '394 patent, and in willful and wanton disregard thereof, rendering this an exceptional case under 35 U.S.C. §285.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Catalina Marketing Corporation hereby demands trial by jury as to all issues in this action triable by a jury.

RELIEF REQUESTED

WHEREFORE, Plaintiff Catalina Marketing Corporation prays for judgment that:

a. Defendant has directly infringed, and/or indirectly infringed by way of inducement and/or contributory infringe the '394 patent;

b. Defendant, its officers, directors, owners, proprietors, employees, agents, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert with it, be preliminarily enjoined from infringing or actively inducing and/or contributing to infringe the '394 patent;

c. Defendant, its officers, directors, owners, proprietors, employees, agents, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert with it, be enjoined from infringing or actively inducing and/or contributing to infringe the '394 patent;

d. Damages be paid to Catalina Defendant for Defendant's infringement of the '394 patent, including profits made by Defendant and lost by Catalina as a result of Defendant's infringing activities;

e. Defendant's infringement was willful, entitling Catalina to and awarding treble damages under 35 U.S.C. § 284;

f. Defendant's infringement was such as to render this case exceptional, entitling Catalina to recover its costs and reasonable attorney fees under 35 U.S.C. § 285;

g. Granting Catalina such other and further relief as the Court deems just and proper.

DATED: November 1, 2007.

Respectfully submitted,

McKOOL SMITH, P.C.



Sam Baxter
Lead Attorney
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
McKool Smith, P.C.
104 E. Houston Street, Suite 300
P.O. Box 0
Marshall, Texas 75670
Telephone: (903) 923-9000
Telecopier: (903) 923-9099

Theodore Stevenson, III
Texas State Bar No. 19196650
tstevenson@mckoolsmith.com
M. Jill Bindler
Texas Bar No. 02319600
jbindler@mckoolsmith.com
McKool Smith, P.C.
300 Crescent Court, Suite 1500
Dallas, Texas 75201
Telephone: (214) 978-4000
Telecopier: (214) 978-4044

Of Counsel:

Sharon R. Barner
Marshall J. Brown
FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60610-4764
TEL: (312) 832-4500
FAX: (312) 832-4700

Anat Hakim
FOLEY & LARDNER LLP
3000 K Street, N.W.
Suite 500
Washington, D.C. 20007
TEL: (202) 672-5300
FAX: (202) 672-5399

Attorneys for Plaintiff

Catalina Marketing Corporation